

STATE OF LOUISIANA

GENERAL PROGRAM ADMINISTRATION

Citation
42 CFR 431.200
through 431.250
Item 4.2 cont.

(vi) The Hearing Officer shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the Hearing Officer shall explain the issues and the order in which evidence will be received.

(vii) A party has the burden of proving whatever facts it must establish to sustain its position except that a provider has the burden of proof to show that services were in fact rendered as billed.

(viii) The burden of producing evidence as to a particular fact is on the party against whom a finding on that fact would be required in the absence of further evidence.

(b) Witnesses and Subpoenaes

(i) A party shall arrange for the presence of his witnesses at the hearing.

| | | |
|--------|-------------|------|
| STATE | Louisiana | (ii) |
| DATE | 5-17-79 | A |
| DATE | JUN 12 1979 | |
| PCO-11 | 79-22 | |

A subpoena to compel the attendance of a witness may be issued by the Hearing Officer upon written request by a party and a showing of the need therefore.

(iii) A subpoena may be issued by the Hearing Officer on his own motion.

(iv) An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda, or other records shall be made by affidavit to the Hearing

STATE OF LOUISIANA

GENERAL PROGRAM ADMINISTRATION

Citation

42 CFR 431.200
through 431.250
Item 4.2 cont.

Officer, giving the name and address of the person or entity upon whom the subpoena is to be served. It shall describe the documents, papers, books, accounts, letters, photographs, objects, or tangible things not privileged that are desired to be produced and a showing of the materiality thereof to the issue involved in the proceeding. It shall also include a statement, that to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

(c) Amendments

At any time prior to the completion of the hearing, amendments may be allowed on just and reasonable terms to add any party who ought to have been joined, discontinue as to any party, change the allegations or defenses, or add new causes of action or defenses. Where the agency seeks to add a party or a cause of action or change an allegation, notice shall be given to the appropriate parties. Where a party other than the agency seeks to add a party or change a defense, notice shall be given pursuant to section 19-927 B. The Hearing Officer shall continue the hearing for such time as he deems appropriate, and notice of the new date shall be given pursuant to section 19-927.

| | | |
|-------|-------------|---|
| STATE | Louisiana | A |
| DATE | 5-17-79 | |
| FILE | JUN 12 1979 | |
| PC | 79-22 | |

(d) Continuances or Further Hearings

- (i) The Hearing Officer may continue a hearing to another time or place, or order a further hearing on his own motion or upon showing of good cause, at the request of any party.

STATE OF LOUISIANA

GENERAL PROGRAM ADMINISTRATION

Citation

42 CFR 431.200
through 431.250
Item 4.2 cont.

- (ii) Where the Hearing Officer determines that additional evidence is necessary for the proper determination of the case, he may at his discretion:
 - (x) Continue the hearing to a later date and order the party to produce additional evidence; or
 - (xx) Close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.
- (iii) Written notice of the time and place of a continued or further hearing shall be given except that when a continuance or further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to each party present at the hearing.

(e) Record of Hearing

A complete record of the proceedings shall be made. The testimony shall be transcribed and copies of other documentary evidence shall be reproduced when directed by the Hearing Officer. The record will also be transcribed and reproduced at the request of a party to the hearing provided he bears the cost of the copy of the transcript.

| | |
|-------------|--------------------|
| STATE | <u>Louisiana</u> |
| DATE REC'D | <u>5-17-79</u> |
| DATE APPEAL | <u>JUN 12 1979</u> |
| PCO-11 | <u>19-22</u> |

A

STATE OF LOUISIANA

GENERAL PROGRAM ADMINISTRATION

Citation

42 CFR 431.200
through 431.250
Item 4.2 cont.

(7) Decision

- (a) At the conclusion of the hearing, the Hearing Officer shall take the matter under submission and shall submit to the Secretary of DHHR a proposed decision.
- (b) The proposed decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and an order.
- (c) The Secretary of the agency may adopt the proposed decision or he may reject the proposed decision and have a decision prepared based upon the record, or he may remand the matter to the Hearing Officer to take additional evidence. In the latter case, the Hearing Officer thereafter shall submit to the Secretary a new proposed decision.
- (d) The decision shall be final upon adoption by the Secretary of the agency subject only to judicial review by the courts. Copies of the decision shall be mailed to the provider at his last known address and to any representative thereof.

(8) Failure to Appear

| | |
|------------|--------------------|
| STATE | <i>Louisiana</i> |
| DATE DECID | <i>5-17-79</i> |
| BY | <i>JUN 12 1979</i> |
| FILE NO | <i>79-22</i> |

- (a) If a provider fails to appear at a hearing, a decision may be issued by the Appeals Section dismissing the hearing. A copy of the decision shall be mailed to each party together with a statement of the provider's right to reopen the hearing.
- (b) Any dismissal may be rescinded if the provider makes application to the Hearing Officer in writing within 10 calendar days after the mailing of the decision, showing good cause for his failure to appear at the hearing.